IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE THIRTY FIRST DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 18500 of 2003

Between:

B.Venkateshwar Reddy S/o.B.Buchi Reddy
R/o.Ravipadu(PO) Pedanandipadu (M)Guntur District.

..... PETITIONER

AND

1 The Managing Director, Transco Transmission Corporation of

A.P.Ltd Vidyuth Soudha, Hyderabad.
2 Chief Engineer Transmission, Vidyuth Soudha, Hyderabad.
3 Chief Engineer TL&SS Zone, Visakhapatnam.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to exercise its extra ordinary jurisdiction Under Art.226 of the Constitution of India by issuing a writ of Mandamus or like any other appropriate writ declaring the letter No.CE/TL&SS/VSP/Tech/F.Est/D.No.722/03, dated 27.8.2003 in respect of the work awarded at Sl.No.4 & 5 as illegal arbitrary passed contrary to the principles of natural justice and affecting right to life of the petitioner.

WRIT PETITION NO : 18505 of 2003

Between:

B. Venkateshwar Reddy s/.o B. Buchi Reddy
R/o 5-11-662, Vidyarayanapuri,
Hanamkonda, Warangal

..... PETITIONER

AND

1 Managing Director Transco Transmission Corporation of A.P. Ltd., Vidyuth Soudha, Hyderabad
2 Chief Engineer Transmission, Vidyuth Soudha, Hyderabad
3 Chief Engineer Elecl.,TL &SS Zone, Warangal.

.....RESPONDENT.S

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to exercise its extraordinary jurisdiction under Art. 226 of the Constitution of India by issuing a writ of Mandamus or like any other appropriate writ declaring the letter No. CPT 351/O&M Contracts/2003-2004 /D.No. 450/03 dt. 26-8-2003 in respect of the work awarded at Sl.Nos. 4 and 5 of the said letter as illegal arbitrary passed contrary to the principles of natural justice and affecting right to life of the petitioner

WRIT PETITION NO : 20777 of 2003

Between:

B.Venkateshwar Reddy S/o. B.Buchi Reddy
R/o. 5-11-662, Vidhyarayanapuri, Hanamakonda, Warangal District

..... PETITIONER

AND

1 General Manager Personal, A.P.Transco, Vidyuth Soudha,

Hyderabad
2 Chairman and Managing Director, NPDCL, Nr.R.E.C. Petrol

Pump, Waranagal.
3 Superintending Engineer, Operation Circle, N.P.D.C.L.,

Nizamabad.
4 Director (HRD & Projects) of A.P.Transco, Vidyuth Soudha,

Hyderabad.

.....RESPONDENTS.

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to exercise its extra ordinary jurisdiction under Article 226 of the Constitution of India by issuing a writ in the nature of Mandamus or any other appropriate writ by declaring the letter of termination of contract/agreement dated 17-9-2003 as illegal, arbitrary, contrary to the principles of natural justice and affecting right to life.

Counsel for the Petitioner in these writ petitions:MR.BANKATLAL MANDHANI

For the Respondents in these writ petitions: Smt. M.VINOBHA DEVI,

STANDING COUNLSEL FOR AP.TRANSCO.

The Court made the following :

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COMMON ORDER:

Since common question is involved in all these writ petitions, they are being taken up together for disposal.

2. Heard the learned counsel appearing for the petitioner and also the learned standing counsel appearing on behalf of the respondents-Corporation.

3. The case of the petitioner, who is common in all these three writ petitions, in brief, is that the petitioner is a registered approved contractor and in terms of tender notice issued on 16-06-2003, the petitioner participated by submitting his tender and complied all the requirements as contemplated. As per the proceedings dated 19-08-2003, the petitioner was informed that his tender has been accepted for the works i.e., a) CBD Gang- Kalapaka, b) CBD Gang- Mothugudem and c) Manning of SS-132 KV Peddapuram, and he was asked to commence the work with effect from 01-09-2003 by obtaining necessary approval from the staff engaged from the concerned authorities. The petitioner further submits that accordingly he has made all the preparations and also purchased substantial material and vehicles etc., for carrying out the work. However surprisingly he was served with the impugned proceedings canceling the work order. On enquiry, it was informed that the petitioner did not furnish the information in regard to the particulars as sought for by the second respondent in the said cancellation letter. Therefore, the petitioner challenges the impugned proceedings on the ground that the impugned action is totally without any proper basis and also without disclosing the apparent reasons. Hence, the writ petition.

4. In the counter affidavit filed by the respondents herein, it is stated that having regard to the specific conditions contained in the tender format and also the rules applicable, the petitioner has to disclose the relationship with any of the employees

of the Corporation. There is no dispute to the fact that the petitioner participated by submitting his tender in pursuance of the notification issued by the Corporation and his tender was accepted. It is submitted that all this is only without knowledge of the fact that the petitioner is related to one of the employees of the Corporation. It is further submitted that the petitioner and another contractor namely Smt Karunasree are related to the Assistant Engineer of the A.P. Transco who is working at Warangal. The said Karunasree is no other than the wife of the said employee by name Anil Kumar and whereas the petitioner is his sister-in-law's husband. Therefore, on enquiry it was found that the petitioner has suppressed this fact and did not disclose while submitting the tender, which is very fatal. Hence, the impugned action is taken recourse. It is further submitted that in fact the contract is only awarded subject to furnishing of the undertaking regarding the relationship with the employees of the A.P. TRANSCO, yet the same is not complied. Therefore, having regard to the fact that the petitioner is related to the said Anil Kumar, he is not entitled to any such contract and the same has been rightly cancelled.

5. The learned counsel appearing for the petitioner strenuously contended that the entire impugned action is wholly vitiated and does not disclose any reasons validly as contemplated under the conditions and further that the petitioner's relationship with Anil Kumar does not come within the prohibited relations as pointed out by the respondents and therefore he is entitled to proceed with the contract work and therefore the impugned proceedings are liable to be set aside.

6. The learned Standing Counsel appearing on behalf of the respondents-Corporation submits that having regard to the fact that the relationship, which has not been disclosed, amounts to a serious suppression and the petitioner is not entitled to any contract. Further, there is absolutely no reason for the petitioner to suppress such relationship with the employee of the respondents-Corporation at the time of tender.

7. Having considered the submissions made and also on perusal of the material, the only question which crops up for consideration in these writ petitions is as to whether the facts and circumstances for canceling the contract, which has been allotted to the petitioner on the ground that he has suppressed the relationship with the employees of the respondent-Corporation is right.

8. There is no dispute to the fact that in response to the tender notification issued by the respondents-Corporation, the petitioner along with others participated and his tender has been accepted and he has been awarded with the work and he is also asked to proceed with the work for which the petitioner has made several preparations and when he is about to commence the work, at which time the impugned orders are passed canceling the work order. The only reason for such cancellation of work is only due to the fact that the petitioner is related to one of the employees of the respondents-Corporation who is working at Warangal by name Anil Kumar. There is no serious dispute about the relationship with the said Anil Kumar. However, admittedly, the petitioner has not disclosed this fact to the respondents-Corporation at any point of time during processing of the tender till its finalization thereof. No reason is forthcoming on behalf of the petitioner as to the reason for such suppression. Further, it cannot be said that merely because he happens to be the sister-in-law's husband of the said employee, and it would not fall within the prohibited relationship as contemplated in the proceedings issued by the respondents-Corporation. Therefore, it may not be said that there is any such disqualification as contemplated under the proceedings issued by the respondents. No-doubt as submitted by the learned standing counsel appearing for the respondents under the regulation made in the orders dated 23-08-2003, list of various relatives has been pointed which amounts to serious disqualification for any withholding of contract with the respondent-Corporation. There is also no dispute to the fact that the relationship of sister-in-law's husband does not fall within the 26 Prohibited Relations as pointed out therein. However the fact remains that the petitioner has suppressed such close relationship with one of the employees, which is fatal. Especially when no reason is forthcoming on behalf of the petitioner, there is no justification for withholding such information more so when transaction pertains to in respect of a contract work for public interest is involved. Having regard to the said fact it is to be held that the suppression of the petitioner in regard to such relationship though it may not fall within the prohibited degree is fatal. It is also to be noticed that as per the proceedings dated 18-11-2003, the reasons for such prohibition pointed out only with a view to avoid any collusive affairs between the contractors and the relatives of the employees of the respondents-Corporation. In the circumstances, I do not find any merit in the above three writ petitions.

9. All these writ petitions are accordingly dismissed. No costs.

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B.PRAKASH RAO,J

31st December, 2004.

Chvn/Glv.

Note: CC by one week.

ASSISTANT REGISTRAR.

// TRUE COPY //

SECTION OFFICER.

To

1 The Managing Director, Transco Transmission Corporation of

A.P.Ltd Vidyuth Soudha, Hyderabad.
2 The Chief Engineer Transmission, Vidyuth Soudha, Hyderabad.
3 The Chief Engineer TL&SS Zone, Visakhapatnam.

4 The Chief Engineer Elecl.,TL &SS Zone, Warangal.

5 The General Manager Personal, A.P.Transco, Vidyuth Soudha,

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6 The Chairman and Managing Director, NPDCL, Nr.R.E.C. Petrol

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7 The Superintending Engineer, Operation Circle, N.P.D.C.L.,

Nizamabad.
8 The Director (HRD & Projects) of A.P.Transco, Vidyuth Soudha,

Hyderabad.

9 Two C.D. copies.